

### **REMARKS/ARGUMENTS**

Claims 1, 2, 5, 7-13, 19 and 29-39 remain in the application. Claims 3, 4, 6, 14-18 and 20-28 have been canceled.

The allowance of claims 29-39 is noted with appreciation, as is the allowance of claims 11-13 subject to being rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 11 has been amended to include all of the limitations of the base claim and claim 12 has been amended to depend from claim 11, whereby claims 11-13 are now presumed allowable.

Claims 5, 7, 10 and 19 have been amended to depend from allowable claim 29 and are also submitted as allowable for substantially the same reasons in addition to reciting other novel features in the claimed combination. Claims 8 and 9 depend from claim 7 and are also submitted as clearly allowable.

This still leaves claims 1 and 2 for further consideration. Claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Palitto (U.S. Patent 2,593,914). According to the Examiner, Palitto discloses a combination layout tool 7 comprising two triangular shapes wherein each triangular shape forms two 67.5° angles and one 45° angle. In support, the Examiner states that Fig. 2 of Palitto shows two triangles formed along the bisecting line 9.

However, with this rejection applicant's attorney cannot agree, since Palitto discloses a rhombus 7 having four sides S-1, S-2, S-3 and S-4, with the sides S-1 and S-2 and the sides S-3 and S-4 related at angles of 135° and the sides S-1 and S-4 and the sides S-2 and S-3 related at 45°, not two triangles formed along a bisecting line 9 as suggested by the Examiner.

Indeed, the Examiner admits that Palitto does not disclose a combination layout tool comprising a triangular shaped member having three side edges that intersect at opposite ends to form two  $67\frac{1}{2}^{\circ}$  angle corners and one  $45^{\circ}$  angle corner as recited in claims 1 and 2. However, according to the Examiner, it would have been obvious to modify the combination layout tool of Palitto, to break the tool along the bisecting line 9, forming two triangles, each with two  $65.5^{\circ}$  angle corners and a  $45^{\circ}$  angle corner, since Palitto discloses the desire to form angles at  $67.5^{\circ}$  and to form a bisecting line within the layout tool for bisecting the tool into two triangles, each with two  $67.5^{\circ}$  angle corners and a  $45^{\circ}$  angle corner (column 1, lines 45-53 and column 3, lines 10-19), and since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

However, there is absolutely no suggestion or motivation in Palitto for breaking the combination layout tool of Palitto along the bisecting line 9, forming two triangles, each with two  $67.5^{\circ}$  angle corners and a  $45^{\circ}$  angle corner as suggested by the Examiner. To the contrary, the only teaching in Palitto for using the disclosed device to draw lines at the various angles mentioned in column 3, lines 10-19 including an angle of  $67\frac{1}{2}^{\circ}$  is to line up an already drawn line with the bisecting line 9 and then draw along one of the sides S-1-S-4 to provide a line related at  $67\frac{1}{2}^{\circ}$ . This is entirely different than providing a triangular shape combination layout tool with two  $67\frac{1}{2}^{\circ}$  angle corners and one  $45^{\circ}$  angle corner as claimed. Accordingly, it is respectfully submitted that the Examiner has modified Palitto in light of applicant's present teachings and certainly not from any teachings or suggestions disclosed in Palitto, which is clearly improper. This

is hindsight reconstruction and does not establish obviousness under 35 U.S.C. § 103.

Accordingly, claims 1 and 2 are submitted as clearly allowable.

For the foregoing reasons, this application is now believed to be in condition for final allowance of all of the pending claims 1, 2, 5, 7-13, 19 and 29-39, and early action to that end is earnestly solicited.

In the event that an extension of time is necessary, this should be considered a petition for such an extension. If required, fees are enclosed for the extension of time and/or for the presentation of new and/or amended claims. In the event any additional fees are due in connection with the filing of this amendment, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (Docket No. MCBP0101USA).

Respectfully submitted,

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